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EXAMINER

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ART UNIT

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 22

Application Number: 09/724,279
Filing Date: November 28, 2000
Appellant(s): HILLMAN ET AL.



Scott E. Baxendale
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/16/03.

(1) Real Party in Interest

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A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that: claims 12,13,15,17,18 and 49-51; and claims 38-41, respectively, stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

350,429	GRISWOLD	10-1886
5,176,192	JUDKINS et al	1-1993

(10) Grounds of Rejection

Note: On page 3 of the final rejection, claims 5,12,13,15,17 and 18 were stated as being unpatentable over Kuhar in view of Carouso and further in view of Griswold. However, Carouso was used in this paragraph only in the rejection of claim 5. Carouso did not apply to the rejections of claims 12,13,15,17 and 18. This is made clear by a reading of the rejection on page 3, in which Carouso is not even mentioned. The first paragraph of the rejection addresses Griswold as it applies to claim 5, the rejection of which has since been removed. In the last sentence of the rejection, it is stated that "Griswold is applied here as above", referring to the rejection on page 2 involving Kuhar and Griswold. Consequently, on page 2, claims 12,13,15,17 and 18 should have been included with claims 49-51 in the rejection under Kuhar in view of Griswold, with no reliance on Carouso. Appellant has effectively acknowledged this by grouping these claims together and stating that they stand or fall together. During a phone conversation with Mr. Baxendale on or about the date of the advisory action, the Examiner explained that Carouso was being removed as a reference used in any rejection, thereby rendering claims 1-11 allowable, which Appellant has acknowledged in the brief. The Examiner also mentioned during the telephone conversation the apparent mistake involving the Kuhar, Carouso and Griswold rejection. While in the appeal brief, Appellant, in an apparent earnest attempt to address all issues, has argued the Kuhar, Carouso and Griswold rejection, it is noted that the substantial arguments involve only Kuhar and Griswold, which is the significant outstanding issue.

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This error by the Examiner is regretted but it is submitted that it is easily identifiable and has no bearing on the issues under appeal. Consequently, the rejections under appeal are as follows:

Claims 12,13,15,17,18 and 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhar in view of Griswold.

(As copied from the final rejection) Griswold discloses a well known adjustment system in the form of knobs and threaded member g and spring K. It is noted that the adjustment knob is necessarily accessible from outside of the device. Such is used to adjust the force exerted by the spring. One of ordinary skill in the art experiencing problems with different sized blinds being operated by a spring motor would have looked to the prior art for a means to adjust the tension exerted by a spring motor and would have found Griswold. It would have been obvious to modify Kuhar to have such an adjustment system as taught by Griswold so as to adjust the blind operation to accommodate different sized blinds. While the knob is not threaded onto the axle g, such is an obvious attachment expedient.

Claims 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhar in view of Judkins et al.

(As copied from the final rejection) One way to provide weight to the bottom rail of a blind, which is desirable for a variety of reasons, e.g. better hanging characteristics, is to provide a weight in the form of a bar W, seen in Figs. 23 and 24. It would have

been obvious in view of this teaching to provide Kuhar with such a weight to also achieve, for example, better hanging characteristics. It is obvious that the weight must be chosen so as to maintain the balanced feature of Kuhar. The specific shape of the weight, whether it be rod shaped, bar shaped, etc., is clearly an obvious design choice based on available material, location in which the weight is placed, etc. The term "tape" is broad and readable on any bar shaped weight, which is clearly cuttable.

(11) Response to Argument

Applicant has properly explained the invention in section (5) above. To simplify, see Fig. 12B. This mechanism is located in the bottom rail or top rail of the window blind. The spring motor 210 tends to wind the cords 250,252, on their respective portions of spool 218 when there is no weight opposite this force. The weight of the slats of the blind oppose this spring force. If the weight is too great or too little, the blind will not stay in a balanced position, i.e. remain in a position without the need of some other brake system and will go up or down accordingly. To provide an adjustment system to adjust the strength of the spring to account for different sized blinds, a spring 214 (:bias adjustment mechanism") is adjustably pressed against the spring motor 210.

Proceeding now with the arguments. Kuhar discloses a blind system as recited which is designed to be balanced as is the presently claimed invention. Initially, Kuhar is said to not teach the biasing element. This is correct. Griswold is used to teach this feature. The Griswold reference is said to lack the necessary motivation to be combined with Kuhar. However, one faced with Appellant's particular problem, i.e. the ability of a spring motor used to support suspended articles to be adjusted so that it may be in a

balanced condition regardless of the weight of the suspended articles, would have looked to the art related precisely with this objective and would have found Griswold.

Griswold states:

“My invention relates to devices employed to counterbalance the weight of a lamp or other article suspended from a ceiling or other support, so that the lamp or other article will remain at any position into which it may be adjusted vertically, and yet can be easily raised”, page 1, lines 8-13.

He also states:

“In order to vary the initial pressure with which the brake shall act upon the drum, I provide springs K”, page 2, lines 43-45;

and,

“It will be seen that by my improvement I am enabled to construct a suspension device which will operate very effectively to resist the rotation of the drum in the direction to unwind the cords or chains or when the weight of the lamp or other article is applied thereto but will permit the drum to rotate freely when the cords or chains are being rewound or when the latter are relieved from the weight of the article suspended therefrom.”, page 2, lines 67-76.

In other words, the spring system K,g, of Griswold is used to adjust the amount of force that the spring C applies to winding of the cords B onto the spool A.

It is clear from these excerpts that Griswold is concerned with precisely the same problem with which Appellant is concerned and further, has solved it in precisely the

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same manner as Appellant. This is amply teaching to motivate one of ordinary skill in the art to combine the teachings of Griswold with those of Kuhar.

Over and above this reasoned statement for motivation, it is further noted that Kuhar provides slots 56 for adjusting the tension in the cords, which is inherently designed to prevent the falling or raising of the slats, thereby fine tuning the balancing system of Kuhar to compensate for different sized blinds. The Griswold patent is superior to this primitive tensioning system since Griswold is infinitely adjustable and the wearing of the cords on the slots of Kuhar is ill-advised.

Appellant argues that Griswold is not concerned with balancing a varying weight (as the shade is lifted, the weight increases since the cords support increasing numbers of slats or pleats and as the shade is lowered, the ladders, in the case of Venetian blinds, or the pleated material in the case of pleated shades, assume the weight). However, the varying weight is addressed by Kuhar by his use of a varying strength spring used to compensate for this change if weight.

Appellant's statement on page 10 that, regarding the Griswold patent, that "it is apparent from the specification that, by design, the suspension device will unwind under [to] the weight of the suspended article in the absence of the force applied by the brake J" is incorrect, see passages from Griswold above.


Regarding the rejection under Kuhar in view of Judkins, Appellant argues that the weights of his device are for aiding in the balancing of the shade while the weights of Judkins are for aesthetic purposes, i.e. the hanging characteristics of the shade. Appellant has accurately assessed this situation and the Examiner's position. However,

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these two references are clearly analogous. Consequently, the motivation for combining references does not need to address the particular problem with which Appellant was faced. Combining these references for the aforementioned aesthetic reasons meets the tests of accepted policy and case law regarding the combination of references.

Lastly, the rejection of claims 49-51 is briefly addressed. Applicant has stated that these claims stand or fall with claims 12, 13, 15, 17 and 18, and they are rejected under the same grounds (see "Note", above). The adjustment mechanism of Griswold, i.e. thumb screw g, is clearly accessible to a consumer and must be designed that way to achieve the objectives of Griswold. For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Blair M. Johnson

Primary Examiner
Art Unit 3634

BMJ
September 1, 2003

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